

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

KEVIN JOE BRUNSON,

Plaintiff,

v.

R. RANDOLPH,

Defendant.

NO: 4:16-CV-5100-RMP

ORDER ADOPTING REPORT AND  
RECOMMENDATION AND  
DISMISSING COMPLAINT

**1915(g)**

BEFORE THE COURT is Magistrate Judge Rodgers' Report and Recommendation, ECF No. 12, to dismiss Plaintiff's Complaint for monetary damages, ECF No. 9. Plaintiff initiated his *pro se* civil rights action while a prisoner at the Washington State Penitentiary, and was granted leave to proceed *in forma pauperis*; Defendant was not served.

On December 23, 2016, the Court was notified that Mr. Brunson had been released from custody on November 7, 2016, and was provided a mailing address

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1 in Tacoma, Washington. A copy of the Report and Recommendation was sent to  
2 that address and has not been returned. Plaintiff has filed nothing further in this  
3 action.

4 There being no objections and for the reasons set forth by Magistrate Judge  
5 Rodgers, **IT IS ORDERED** the Report and Recommendation, ECF No. 12, is  
6 **ADOPTED in its entirety.** This action seeking monetary damages based on the  
7 extension of an early release date is dismissed as precluded by *Heck v. Humphrey*,  
8 512 U.S. 477, 481 (1994), and *Edwards v. Balisok*, 520 U.S. 641 (1997).

9 Pursuant to 28 U.S.C. § 1915(g), enacted April 26, 1996, a prisoner who  
10 brings three or more civil actions or appeals which are dismissed as frivolous or for  
11 failure to state a claim will be precluded from bringing any other civil action or  
12 appeal *in forma pauperis* “unless the prisoner is under imminent danger of serious  
13 physical injury.” 28 U.S.C. § 1915(g). **Plaintiff is advised to read the new**  
14 **statutory provisions under 28 U.S.C. § 1915. This dismissal of Plaintiff’s**  
15 **complaint may count as one of the three dismissals allowed by 28 U.S.C. §**  
16 **1915(g) and may adversely affect his ability to file future claims.**

17 **IT IS SO ORDERED.** The Clerk of Court is directed to enter this Order,  
18 enter Judgment, forward copies to Plaintiff at his last known address, and **CLOSE**  
19 the file. The Clerk of Court is further directed to forward a copy of this Order to  
20 the Office of the Attorney General of Washington, Corrections Division. The Court

1 certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal of this Order would not  
2 be taken in good faith and would lack any arguable basis in law or fact.

3 **DATED** January 27, 2017.

4  
5 *s/ Rosanna Malouf Peterson*  
6 ROSANNA MALOUF PETERSON  
7 United States District Judge  
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